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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/537,878

06/07/2005

Joannes Gregorius Bremer

NL 021260

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03/24/2006

PHILIPS INTELLECTUAL PROPERTY & STANDARDS

P.O. BOX 3001

BRIARCLIFF MANOR, NY 10510

EXAMINER

SHAH, SAMIR M

ART UNIT

PAPER NUMBER

2856

DATE MAILED: 03/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

A

<b>Office Action Summary</b>	<b>Application No.</b> 10/537,878	<b>Applicant(s)</b> BREMER ET AL.	
	<b>Examiner</b> Samir M. Shah	<b>Art Unit</b> 2856	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 June 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 June 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 1 (activity monitor). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

2. The disclosure is objected to because of the following informalities:
3. On page 2, lines 30-31, "external hose system" should be changed to -- external host system --.

Appropriate correction is required.

### ***Claim Objections***

4. Claim 9 is objected to because of the following informalities:
5. Add -- the -- before "sensor signals" (4<sup>th</sup> line of the claim) for proper antecedent basis. Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1, 2, 3, 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Hutchings et al. (US Patent 6,122,960 henceforth "Hutch").

8. As to claim 1, Hutch discloses a system for measuring movement of objects including a measurement unit (49) with a plurality of motion sensors/accelerometers operable to produce respective sensor signals indicative of motion/acceleration experienced thereby (column 27, lines 13-20); a processor (52)/microprocessor (56) operable to receive the sensor signals from the measurement unit and to process the sensor signals (measure a distance traversed and the speed of said object) in accordance with a predetermined method (column 24, lines 16-22; column 25, lines 60-61; column 27, lines 29-37), characterized in that the activity monitor/system for measuring movements of objects is operable to monitor and process the sensor signals discontinuously in time/during plurality of measurement cycles (column 27, line 20) (wherein "a cycle is a period of time over which a discrete/discontinuous measurement is made") (column 4, lines 22-24).

9. As to claim 2, Hutch discloses that the measurement unit (49) is operable to output the sensor/acceleration signals discontinuously in time/during plurality of cycles (column 25, lines 3-7).

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10. As to claim 3, Hutch discloses that the processor (52)/microprocessor (56) is operable to monitor the sensor signals discontinuously in time/during plurality of cycles (column 25, lines 3-10).

11. As to claim 9, Hutch discloses a method for measuring motion characteristics of a moving object including a plurality of motion sensors/accelerometers which are operable to produce respective sensor/acceleration signals indicative of motion experienced thereby (column 28, lines 30-35); a processor (52)/microprocessor (56) receiving the sensor/acceleration signals and processing the signals in accordance with a predetermined method (measuring a distance traversed and the speed of an object) (column 24, lines 16-22; column 25, lines 60-61; column 27, lines 29-37), characterized in that the sensor/acceleration signals are monitored and processed discontinuously in time/during plurality of measurement cycles (column 27, line 20).

***Claim Rejections - 35 USC § 103***

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.

4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

14. Claims 4, 5, 6, 7, 8, 10, 11, 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hutch as applied to claims 1, 2, 3 and 9 above, and further in view of Depeursinge et al. (US Patent 6,201,476 B1 henceforth "Depe") or "a continuous patient activity monitor: validation and relation to disability" (Walker et al. henceforth "Walker").

15. As to claims 5, 6, 7, 8, 10, 11 and 12, Hutch fails to disclose that the processor (52)/microprocessor (56) is operable to enter a monitoring mode of operation in which the processor monitors the sensor signals and to enter a standby mode of operation in which no monitoring takes place, either alternately or for respective time periods.

Depe discloses a device for monitoring the activity of a person, including a processor/unit (9), wherein to save power consumption of his monitoring device, unit (9) is put in a standby mode of operation (in which no monitoring takes place if no dynamic changes in the acceleration signals are detected) for a given time period, or else unit (9) is monitoring the sensor signals (which could be called a monitoring mode of operation) (figures 1, 3; column 4, lines 8-11).

Walker discloses an activity monitor including a system for sampling accelerometer information/signals, wherein to conserve batteries, the system switches itself off and hence no accelerometer information is being sampled (standby mode of operation); however, during these periods the system switches on during a predetermined time period to check whether any activity has occurred (monitoring mode of operation) (page 51, lines 6-9).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to put Hutch's processor (52)/microprocessor (56) in a standby mode when it's not in a monitoring mode of operation, in order to save power consumption of Hutch's system as suggested by Depe or to make Hutch's processor (52)/microprocessor (56) operable to enter the monitoring mode and the standby mode alternately as suggested by walker.

16. As to claims 7 and 11, Walker teaches that the respective time periods for the monitoring and standby modes of his system can be variable (page 51, lines 16-17).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have a variable time period for monitoring and standby modes in Hutch's processor (52)/microprocessor (56) as suggested by Walker.

17. As to claims 8 and 12, Depe teaches that the respective time periods for the monitoring and standby modes of unit (9) or the sampling rate of his monitoring device is fixed (column 2, lines 66-67).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have a fixed time period for monitoring and standby modes in Hutch's processor (52)/microprocessor (56) as suggested by Depe.

18. As to claims 4 and 13, Hutch fails to disclose that the processor (52)/microprocessor (56) is operable to monitor the sensor signals in turn.

Depe teaches that his processor/signal processing circuit (6) samples/monitors the sensor/acceleration signals successively in turn, i.e. at a predetermined sampling rate (column 2, lines 66-67; column 3, lines 1-3).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to make Hutch's processor (52)/microprocessor (56) operable to monitor the sensor signals successively in turn as taught by Depe because this would improve the processing speed and help to get rid of monitoring/calculating errors due to undesirable overlap of two sensor signals.

### ***Conclusion***

19. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US Patent 5,573,013 to Conlan

US Patent Application Publication 2002/0109600 A1 to Mault et al.

20. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Samir M. Shah whose telephone number is (571) 272-2671. The examiner can normally be reached on Monday-Friday 9:00 am to 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron Williams can be reached on (571) 272-2208. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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